

EXHIBIT 21

Simmons, Justin

From: Simmons, Justin
Sent: Monday, December 12, 2022 10:08 AM
To: Scott Fitzsimmons; Treece, Joshua; Stemland, Karen
Cc: Kathy Barnes; Brandon Regan; Edward Parrott
Subject: RE: BAE's Improper Redactions and Discovery Deficiencies
Attachments: FFS02023480 - Moran - Redacted.pdf; FFS02042002 - Moran - Redacted.pdf;
FFS02466802 - Moran - Missing Attachments.pdf; FFS02036202 - Moran - Redacted.pdf;
FFS2030327 - Moran - Redacted.pdf; FFS02462156 - Moran - Redacted.pdf;
FFS02466831 - Moran - Missing Attachment.pdf

Good morning, Scott,

BAE has properly noticed the depositions of Thomas Moran and Thomas D'Agostino. It has also subpoenaed Mr. D'Agostino for deposition based on Fluor's claim that it couldn't produce him. Your attempt to unilaterally cancel these depositions is improper. We'll go forward with the depositions as scheduled, and if Fluor fails to produce Mr. Moran or Mr. D'Agostino, or otherwise interferes in our attempt to take the depositions, then BAE will seek appropriate relief from the Court.

Fluor's claim that it can't prepare for the depositions of Messrs. Moran and D'Agostino because of alleged deficiencies in BAE's production is false and thus a mere pretext for cancelling the depositions. As Fluor knows, the only party withholding information relevant to either Mr. Moran or Mr. D'Agostino is Fluor. We've asked Fluor multiple times for the documents that have been improperly redacted/withheld, including most recently on Thursday, December 8, but Fluor has refused to do so. Indeed, Fluor hasn't even acknowledged BAE's request. In contrast, on three separate occasions, Fluor asked for slip-sheeted documents from BAE prior to depositions, and BAE provided them to Fluor within 24 hours.

I attach again for your reference the specific documents we've requested for Mr. Moran. Please produce them by 5 p.m. today.

Best,

Justin

From: Scott Fitzsimmons <sfitzsimmons@watttieder.com>
Sent: Friday, December 9, 2022 3:03 PM
To: Simmons, Justin <Justin.Simmons@wrvblaw.com>; Treece, Joshua <jtreece@woodsrogers.com>; Stemland, Karen <kstemland@woodsrogers.com>
Cc: Kathy Barnes <kbarnes@watttieder.com>; Brandon Regan <bregan@watttieder.com>; Edward Parrott <eparrott@watttieder.com>
Subject: BAE's Improper Redactions and Discovery Deficiencies

****EXTERNAL EMAIL****

Josh –

Thank you for sending the below. Please see the attached letter. As set forth therein, BAE has improperly withheld or wrongfully designated **195,000** records. By contrast, Fluor redacted only 2700 documents, designated 1100 as AEO, and had 8000 on its privilege log.

In light of the inexplicable disparity between Fluor and BAE's production, we cannot agree to your proposal. As you know, the parties met and conferred on Monday, December 5 regarding BAE's improper withholding of relevant and responsive documents. Yet, we are scheduled to depose Mr. Wolf on December 12, Judith Eastwood on December 15, and Kelly Bate on December 16, and BAE has not sent us any documents that you independently determined should be produced. Also, your proposal will require Fluor to still review BAE's 195,000 improperly redacted, designated, or withheld records. Your proposal also suggests that Fluor must wait until one (1) business day before the Wolfe, Eastwood, and Bate depositions to learn whether BAE will produce any document that has been improperly withheld.

Collectively, BAE's actions have severely prejudiced Fluor's ability to prepare for depositions and for this litigation. BAE's improperly designated AEO documents prevents Fluor from seeking technical assistance from Fluor's Project personnel related to assertions set forth in the records. For example, Ms. Bate has over 2500 documents on BAE's privilege log. Mr. Wolf is the Director of Engineering and BAE designated **69,000** documents as AEO, many of which discuss technical aspects of, and deficiencies in Lauren's design. BAE's actions are also affecting Fluor's ability to prepare its witnesses for deposition for this litigation. We also asked for unredacted versions of documents for Mr. Wolfe by 3pm today, and BAE has not sent us any records.

BAE is using discovery to obtain an unfair advantage. As a result, we must reschedule the following depositions and allow the Court to put the discovery process back on equal footing:

Derek Wolfe
Kelly Bate
Tom D'Agostino
Judith Eastwood
Tom Moran

We suggest raising these issues with Judge Ballou during our hearing with him next Friday. It is our intention to contact him regarding these issues.

Scott P. Fitzsimmons | Senior Partner

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From: Treece, Joshua <Joshua.Treece@wrvblaw.com>

Sent: Thursday, December 8, 2022 9:31 PM

To: Scott Fitzsimmons <sfitzsimmons@watttieder.com>; Kathy Barnes <kbarnes@watttieder.com>; Brandon Regan <bregan@watttieder.com>; Edward Parrott <eparrott@watttieder.com>

Cc: Simmons, Justin <Justin.Simmons@wrvblaw.com>; Stemland, Karen <kstemland@woodsrogers.com>

Subject: Proposal Regarding Slipsheets and Redactions

~>>>Alert: This is an external email, USE CAUTION when opening attachments and links.<<<~

Scott & Kathy:

I am following up on our discussion regarding the parties' approach to slip sheeting and redactions. BAE believes the below is a reasonable approach to address witnesses to be deposed:

1. For depositions after next week, each party will re-review any slip sheeted/redacted document that hit on a search term, and provide any relevant material identified from the second look at least three days before the witnesses' deposition;

2. For witnesses being deposed next week, each party will endeavor to complete this process and provide any additional documents no later one business day before the deposition.
Please confirm this is acceptable.

Thanks,

Josh

Joshua Treece
Principal

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